IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

Crl.MC.No. 2259 of 2007()

C.C.NO.3/06 OF J.F.C.M. COURT-III, PUNALUR

PETITIONER:

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1. SANTHOSH JACOB, S/O.JACOB P.MAMMAN,
PALLELI HOUSE, POONTHALA P.O.,
PIRAVANTHOOR.

2. BEENA SANTHOSH, W/O.SANTHOSH JACOB,
PALLELI HOUSE, POONTHALA P.O.,
PIRAVANTHOOR.

BY ADV. SRI.SAJEEV KUMAR K.GOPAL
SRI.BINOY VASUDEVAN

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 16/07/2007, A/W. CRMC 2260 & 2261/07, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.Nos. 2259, 2260 &
2261 of 2007

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Dated this the 16th day of July, 2007

O R D E R

The common petitioners faces indictment in three separate prosecutions, all under Section 138 of the N.I. Act. Cognizance was taken. The petitioners did not appear before the learned Magistrate. Consequently, reckoning them as absconding accused, warrants of arrest have been issued against the petitioners by the learned Magistrate.

2. According to the petitioners they are absolutely innocent. Their absence earlier was not wilful. They are willing to appear before the learned Magistrate and seek regular bail. But they apprehend that their applications for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances it is prayed that appropriate directions may be issued to the learned Magistrate to release the petitioners on bail on the date of surrender itself.

2. I do not find any circumstance justifying the issue of any direction under Section 482 Cr.P.C. It is certainly for the petitioners

to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioners when they surrender before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This application is accordingly dismissed. I may however hasten to observe that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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